S.B. Civil Writ Petition No.2252/06
Shiv Narain Sura Vs. State & Ors.

Date of Order : 27/03/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. Hanuman Choudhary, for petitioner

Instant petition has been filed by the Pradhan of Panchayat Samiti, Navalgarh, District Jhunjhunu against the order dt.23rd February, 2006 [Ann.6] whereby the State Government has stayed the order of transfer passed by the Panchayat Samiti in exercise of its power u/s 89(8-A) of Rajasthan Panchayati Raj Act, 1994 [“the Act of 1994”].

Facts, as alleged in the petition, are that the Standing Committee took resolution with respect to transfer within its Panchayat Samiti, on 31st May, 2005. The State Government intervened in the matter and stayed their decision vide order dt.12th July, 2005 [Ann.3] which was challenged by the petitioner by filing Writ Petition No.8874/05, which was disposed of on 4th January, 2006 with the direction that in case petitioner submits representation, the same shall be decided within a period of three weeks. In the light of orders of this court, the petitioner made representation Ann.5 which was considered by the State Government and same was decided vide order dt.23rd February, 2006 [Ann.6].

Shri Hanuman Choudhary, counsel for petitioner submits that once the Standing Committee passed its resolution, the State Government could not have intervened in the matter. Irrespective of the fact that the State Government has power to transfer the employees from one place to another in exercise of its power u/s.89(8-A) of the Act of 1994 and no reason has been assigned to stay the proceedings/decision of the Panchayat Samiti while passing order dt.23rd February, 2006. Counsel further submits that action of the Government is unconstitutional and is all because of political rivalry between Pradhan and other political leaders, authority has been arbitrarily exercised.

I have considered the submission and perused the material on record.

Sub-section (8-A) of Section 89 of the Act of 1994 empowers the State Government to pass the order of transfer of members of service from one Panchayat Samiti to another and so also within the same district or outside it and may also stay the operation of order/cancel the order of transfer made under sub-section (8) or the rules made thereunder. The authority while passing the order Ann.6 has

assigned reason for exercise of power available under section 89(8-A) of the Act of 1994 and the validity of the provision of 1994 is not under challenge and I find no illegality in the said decision.

The submission made by the counsel that it is all because of political reason, in my opinion, is without any substance. Merely because, the Pradhan belongs to some other political party that cannot to be a basis for the Government to interfere, no material otherwise has been placed on record to support his contention and what has been alleged by the petitioner in Para 8 of the petition is a bare allegation, no case of malafide has been made out.

Consequently, I find no force in the writ petition and the same stands dismissed.

[Ajay Rastogi],J.

FRB